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New Bills Address Marketable Record Title Act (MRTA) and HOA Regulation--CALL Alert for December 18, 2015

With the holiday season upon us and the 2016 Legislative session around the corner, it brings up the question of whether Homeowners' Associations (HOAs) will be getting a gift from the Legislature or a lump of coal?

I think everyone will agree that it would be a huge gift for HOAs if their covenants and restrictions were exempt from the Marketable Record Title Act (MRTA). **This is exactly what [HB 7031](#), Relating to the Marketable Record Title Act** will do. The bill is being championed by Rep. Kathleen Passidomo and the House Civil Justice Subcommittee. Specifically, the bill provides that covenants and restrictions of homeowners' associations will not expire because of MRTA. This will save HOAs thousands of dollars by not having to "preserve" their covenants and restrictions or "revitalize" them if they expire. At this time, there is no Senate companion bill and it remains to be seen whether the title

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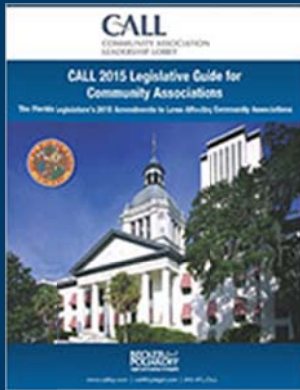
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support of this bill and we will keep you updated on its progress.

Another bill of interest to HOAs, which some owners will like and others will not, is [SB 1122](#) by Sen. Hays, Relating to **Homeowners' Associations**. The primary emphasis of the bill is regulation of HOAs by the Department of Business and Professional Regulation. Below is a summary of the current version of the bill. However, as you know from following my alerts, the bills can change significantly throughout the legislative session. SB 1122 does the following:

- Gives the Division of Condominiums, Timeshares and Mobile Homes the authority to regulate HOAs governed by Chapter 720.
- Increases the minimum damages for the willful failure to comply with official records requests to \$500 per day up to 30 days, to begin after the 11th day. Also allows a cause of action to be brought against a management company or manager if the association has delegated records inspections to them and the CAM may not be reimbursed or indemnified for damages.
- HOAs must report to the Division by 11/22/16 and each year thereafter its name, FEI number, address, total number of parcels and total amount of revenues and expenses from the association's annual budget. The information must be resubmitted if there is a material change in the information required to be reported. The reporting requirement will expire on July 1, 2026.
- Removes language from the HOA Act which current allows fines of more than \$1000 to become a lien on a parcel.
- Amends the turnover requirements in

90% of the parcels are sold, turnover will occur upon the occurrence of any of the following: (1) If less than 100 lots, 3 months after 75% parcels are conveyed; (2) If less than 200 lots, the passage of 10 years after the governing docs are filed with the local government; (3) if more than 200 parcels, the earlier of the passage of 20 years after the governing documents of the HOA are filed with the local government or 3 months after 90% of the parcels in all phases of the community have been conveyed to members.

- Dispute resolution: Upon the request of the parcel owner or HOA, the department shall provide "binding arbitration" of disputes involving covenants, restrictions, rule enforcement and duties to maintain and make safe pursuant to declaration of covenants, rules and other governing documents; disputes involving assessments; and disputes involving official records of the HOA.
- Adds 720.318 to require department to provide training and education programs for HOA members, directors and officers.
- Adds 720.319 providing that the Division may enforce compliance with 720 and rules relating to records access, financial management, and elections of HOAs and may investigate complaints. Also requires HOAs to pay \$2 per lot to the Division.
- 720.401 is amended to require seller of a parcel in an HOA to provide a prospective buyer with the governing documents and operating budget and any amendments at least 7 days before closing. The prospective buyer may terminate the contract within 3 days after receipt.

- Provides a cause of action against the developer for damages resulting from developer's abandonment or failure to maintain and complete amenities or infrastructure disclosed in the governing documents, written contract, or written agreement for purchase of parcel; and for failure to perform or comply with any duty or obligation required under the governing documents, written contract, or written agreement for purchase.
- Provides that developer may not use association funds for any purpose not specifically authorized in HOA budget, and a violation is actionable by the nondeveloper parcel owners.

Happy Holidays and Happy New Year to all!
We look forward to updating you again in 2016!!



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